GOVERNMENT OF MYSORE

LABOUR AND MUNICIPAL ADMINISTRATION DEPARTMENT (LABOUR)

Labour Dispute.—Industrial Dispute between the Workmen and the Management of M/s. Karnatak Co-operative Textile Mills, Limited, Hubli.

Award of the Labour Court, Hubli—published.

Read the following papers:—

(1) Letter No. R 48/66-67/80, dated 18th January 1967 from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli

IN THE LABOUR COURT AT HUBLI

Date: 18*th January* 1967

Reference (ID) (LCH) No. 48 of 1966.

Present:—Sri Syed Azizuddin Ahmed, M.A., *B.L.*, *Presiding Officer*.

Between:—

The workmen of M/s Karnatak Co-operative Textile Mills, Ltd., Hubli, represented by The General Secretary, Rashtriya Girani Mazdoor Sangh, Mangal Oni, Hubli .. .. *I Party*

And

The Management of M/s. Karnatak Co-operative Textike Mills, Ltd., Hubli .. .. *II Party*

This is a reference under Section 10 (1) (c) of the Industrial Disputes Act, 1947, made by the Government of Mysore in their Order No. LMA 68 LLD 66, dated 25th August 1966. The points of disputes referred for adjudiation are as under:—

"Is the management of M/s. Karnatak Co-operative Textile Mills Limited, Hubli justified in terminating the services of Sri L. R. Chandargi who had put in a service of 7 years and over, after retirement without retrenchment compensation?

If not, is he entitled to retrenchment compensation for the services rendered under the said Management as the Provident Fund Scheme is not in force in the Mills?"

2. The cause of the aggrieved workman has been taken up by The Rashtriya Girani Mazdoor Sangh, Hubli represented by its General Secretary, Sri M. A. Kutty, Joint Secretary appeared for the I Party and Sri Valamannavar, Advocate for the II Party. In response to the notices issued by the Court, the I Party filed its Claim Statement dated 13th December 1966 and the II Party its Counter Statement. dated 2nd January 1967.

3. To put it in a nut-shell, the case of the I party is that Sri L. R. Chandargi, the aggrieved workman after his retirement as Police Sub-Inspector had settled himself in business at Hubli. He was appointed by the management as Watch and Ward Controller as per Office Order dated 29th October 1959. Long after this, the management served him a notice as per Office Order No. 228, dated 5th April 1965 directing him to avail his leave with immediate effect. After he had proceeded on leave the management issued an order No. H 19749 dated 31st May 1965 permitting him to retire from service from 1st July 1966. The case of the I Party is that when Sri L. R. Chandargi joined the service as Watch and Ward Controller, there was no restriction of age or any other contract existing between him and the management. It was prayed that the aggrieved workman be reinstated and paid all legal dues to which he is entitled as per law and such other reliefs as may be deemed fit to grant him in the circumstances of the case.

4. The defence is that Sri L. R. Chandargi was a retired police officer when he was taken in the service of the mills. He had already deached his age of superannuation. His service conditions would be governed by the standing orders of the mill, which fix the age of superannuation at 58. The aggrieved workman was already 62 years of age when his services were terminated by the management. He is not entitled to any of the reliefs sought for by him. The I Party examined the aggrieved workman and closed its case. No witnesses were examined on behalf of the II Party. Twelve documents were marked on behalf of the I Party and three on behalf of the II Party. On the basis of the pleadings, the following issues were framed in addition to the points of dispute specified in the order of reference :

1. Whether the Court has jurisdiction to hear the Reference ?
2. Whether the present dispute is an industrial dispute ?
3. Whether the management was actuated by *mala fides* in terminating the services of the aggrieved workman and whether it was an act of victimisation ?

FINDINGS

Issues No. 1 and 2.—

The learned representative of the II Party did not press issue Nos. 1 and 2. This apart, there is no difficulty in holding that the present dispute is an industrial dispute and that the Court has jurisdiction to hear the reference. It is in evidence that the aggrieved workman did not hold either managerial or administrative post. Thus, I have no difficulty in deciding issues Nos. 1 and 2 in favour of the I Party.

Issue No. 3.—

There is not an iota of evidence to suggest that the management was actuated by malice in terminating the services of the aggrieved workman. On the other hand, there is much to suggest that the aggrieved workman had enjoyed the bounty and the munificence of the management in a large measure, as would be seen from later discussion. Thus, issue No. 3 is decided against the I Party.

I shall next discuss the point of dispute which has been adopted as an issue in the case. The onus has been laid on the management to justify its action in terminating the service of Sri L. R. Chandargi. It is a common ground that Sri L. R. Chandargi, who had retired from the police Department as P.S.I. after superannuation was re-employed by the factory as Watch and Ward Controller. According to the I Party, he joined the factory in the year 1959 when he was

of the age of 56 years. The factory had its own standing orders at that time. A copy of the same has been filled and marked Ex. M-3. Article 18 of Ex. M-3 reads thus :—

> "A workman shall retire from the service of the Mills on his attaining the age of fifty-eight provided that the Management may in its discretion extend the period of employment of any particular worker, for a period of not more than two years provided that such workman continues, to be bodily and mentally efficient and fit for work after examination by a competent medical authority."

The management has terminated the services of Sri L. R. Chandargi after his attaining the age of 62 years. I wonder what grievance the I Party or the aggrieved workman could have against the management. The aggrieved workman relies on his self-serving statement as deposed by him that the management had voluntarily offered him

the job and had told him orally that he would be allowed to work so long as he was fit to carry on the work. He does not say as to who the person was who had given him such a blank cheque. Even if I am to presume that it was the Managing Director who had given him such an assurance even that dignitary would not be competent to give him such an assurance. Even the Managing Director could not act against the clear provisions of the standing orders to which I have adverted to above. According to the standing orders, the age of superanuation is 58 and the Management may in its discretion extend the period of employment for a period of not more than 2 years and that too after the workman is certified by a competent medical authority after examination that he is bodily and mentally efficient and fit for work. If the management had bypassed these standing orders, it was wrong on their part. They would have been doubly wrong, if they had allowed him to continue to be in service after he had reached the age of 62 years. It is a trite saying that two wrongs do not make a right. The aggrieved workman is banking on an action taken by the management in writing a letter to the Deputy Registrar, Co-operative Societies, Belgaum Division that the services of Sri L. R. Chandargi do not fall under the provisions of the Co-operative Rules 1960 and hence, not applicable to him. This only shows that Sri L. R. Chandargi had some influence with the management. They went out of way to help him and they did help him to a large extent. This act of bounty boomerings. The I Party and the aggrieved assail this as an act of victimisation and a *mala fide act*. Retirement having taken place due to the superannuation of the aggrieved workman, he would not be entitled to any compensation. Thus, the point of dispute is answered in favour of the II Party.

AWARD

The management of M/s Karnatak Co-operative Textile Mills Ltd., Hubli is justified in terminating the services of Sri L. R. Chandargi. He is not entitled to retrenchment compensation. No order as to costs.

Place : HUBLI,
Date : 18th January 1967.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.

ANNEXURE

Reference (ID) (LCH) No. 48 of 1966

Witnesses examined for I Party

W.W.1. Lingappa Ramalingappa

Witnesses examined for II Party

Nil

Exhibits *Documents marked for I Party*

W—1. Appointment Order No. 513/1959 dated 5th November 1959

W—2. Office Order No. H. M. 1333 dated 29th January 1961 payment of D.A.

W—3. Office Order No. 375/64 dated 31st December 1964, assigning duties.

W—4. Direction to proceed on leave Office Order No. 228 dated 5th April 1965.

W—5. Notice of retirement dated 31st May 1965.

W—6. Conciliation proceedings dated 2nd December 1966.

W—7. Letter to II Party dated 18th May 1965.

W—8. Letter to II Party dated 31st August 1965.

W—9. Letter dated 8th July 1965 to II Party.

W–10. Letter dated 30th June 1965 to II Party.

W–11. Postal Acknowledgment dated 2nd July 1965 to II Party.

W–12. A1 letter from W.W. 1 to II Party dated 1st July 1965.

Documents marked for II Party

M—1. Copy of Notice to W.W. 1 dated 31st May 1965.

M—2. Office Order No. H/9449 dated 7th June 1965.

M—3. Copy of Standing Orders.

Place : HUBLI

Date : 18*th January* 1967.

SYED AZIZUDDIN AHMED,
Presiding Officer.
Labour Court Hubli.

ORDER

Bangalore dated 21st January 1967.

S.O. 626.—WHEREAS by State Government Order No. PLM 68 LLD 66, dated 25th August 1966 the Industrial Dispute between the Workmen and the Management of M/s. Karnatak Co-operative Textile Mills Limited Hubli was referred to the Labour Court, Hubli for adjudication ;

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute ;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 68 LLD 66]

By Order and in the name of the Governor of Mysore,

G. G. PUROHIT,

Under Secretary.